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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 LENIER AYERS,

12 Plaintiff,

13 v.

14 HENRI RICHARDS, et al.,

15 Defendants.

No. C08-5541 RJB/KLS

ORDER DIRECTING SERVICE BY U.S.
MARSHAL OF AMENDED COMPLAINT

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17 This civil rights action has been referred to United States Magistrate Judge Karen L.
18 Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff has been
19 granted leave to proceed *in forma pauperis*. Plaintiff has now filled out a service form for
20 service of his Amended Complaint on Defendant Henri Richards.¹ It is, therefore, **ORDERED:**

21 (1) Service by United States Marshal

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23 The United States Marshal shall send the following to Defendant Henri Richards by first
24 class mail: a copy of the Amended Complaint and of this Order, two copies of the Notice of
25 Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service of Summons, and

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¹ The Court previously ordered service on the other Defendants in this action for whom Mr. Ayers provided service copies and marshal forms. Dkt. # 17

1 a return envelope, postage prepaid, addressed to the Clerk's Office. All costs of service shall be
2 advanced by the United States. The Clerk shall assemble the necessary documents to effect
3 service and shall send a courtesy copy of the Complaint to the Washington State Attorney
4 General's Office Criminal Justice Division.

5 (2) Response Required

6 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of
7 Service of Summons. Each defendant who timely returns the signed Waiver shall have **sixty**
8 **(60) days** after the date designated on the Notice of Lawsuit to file and serve an answer or a
9 motion directed to the complaint, as permitted by Rule 12 of the Federal Rules of Civil
10 Procedure.

11 Any defendant who fails to timely return the signed Waiver will be personally served
12 with a summons and complaint, and may be required to pay the full costs of such service,
13 pursuant to Rule 4(d)(2). A defendant who has been personally served shall file an answer or
14 motion permitted under Rule 12 within **thirty (30) days** after service.

15 (3) Filing and Service by Parties, Generally

16 All original documents and papers submitted for consideration by the court in this case,
17 are to be filed with the Clerk of this court. The originals of all such papers shall indicate in the
18 upper right-hand corner the name of the Magistrate Judge to whom the copies are to be
19 delivered. The papers shall be accompanied by proof that such documents have been served
20 upon counsel for the opposing party (or upon any party acting *pro se*). The proof shall show the
21 day and manner of service and may be written acknowledgment of service, by certificate of a
22 member of the bar of this court, or by affidavit of the person who served the papers.
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2 (4) Motions

3 Any request for court action shall be set forth in a motion, properly filed and served. The
4 motion shall include in its caption (immediately below the title of the motion) a designation of
5 the Friday upon which the motion is to be noted upon the court's calendar. That date shall be the
6 third Friday following filing of the motion (fourth Friday for Motions for Summary Judgment).
7 All briefs and affidavits in opposition to any motion shall be filed and served not later than 4:30
8 p.m. on the Monday immediately preceding the Friday appointed for consideration of the motion.
9 If a party fails to file and serve timely opposition to a motion, the court may deem any opposition
10 to be without merit. The party making the motion may file, not later than 4:30 p.m. on the
11 Friday designated for consideration of the motion, a response to the opposing party's briefs and
12 affidavits.
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15 (5) Motions for Summary Judgment

16 If one of the parties files a motion for summary judgment pursuant to Federal Rules of
17 Civil Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56
18 requires a nonmoving party to submit affidavits or other evidence in opposition to a motion for
19 summary judgment if the moving party has shown the absence of issues of material fact and an
20 entitlement to judgment as a matter of law. A nonmoving party may not rest upon the mere
21 allegations or denials of prior pleadings. Rather, successful opposition to a motion for summary
22 judgment requires the nonmoving party to set forth, through affidavits or other evidence, specific
23 facts showing a genuine issue for trial. Failure by the nonmoving party to oppose a summary
24 judgment motion or to present counter evidence could result in the court accepting the moving
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1 party's evidence as the truth, and entering final judgment in favor of the moving party without a
2 full trial. *Rand v. Rowland*, 113 F.3d 1520 (9th Cir. 1997).

3 (6) Direct Communications with District Judge or Magistrate Judge

4 No direct communication is to take place with the District Judge or Magistrate Judge with
5 regard to this case. All relevant information and papers are to be directed to the Clerk.

6 (7) Clerk's Action

7 The Clerk is directed to send a copy of this Order and of the General Order issued by the
8 Magistrate Judges to Plaintiff.
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11 DATED this 20th day of April, 2009.

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15 Karen L. Strombom
16 United States Magistrate Judge
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